



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR & FF

Introduction

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. An Order for Possession for non-payment of rent
- b. A monetary order in the sum of \$1900 for unpaid rent and utilities.
- c. An order to recover the cost of the filing fee

A hearing was conducted by conference call in the presence of the landlord and in the absence of the respondent although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

The landlord filed an Amendment to the Application for Dispute Resolution on July 11, 2017 and attempted to serve the documents by leaving it in the mailbox. There is insufficient evidence that the tenant received the Amendment and if so when. The Amendment increased the monetary claim from \$1900 to \$13,368. The Residential Tenancy Act requires a party to serve a monetary claim by registered mail to where the other party resides or by personal service. I determined the landlord failed to prove that the Amendment was sufficiently served. As a result I dismissed the claims in the Amendment with liberty to re-apply.

The Act allows a party to serve a Notice to End Tenancy by leaving it in a mailbox. I find that the one month Notice to End Tenancy was on the Tenant by leaving it in the mailbox on April 30, 2017. Further I find that the Application for Dispute Resolution/Notice of Hearing was served on the Tenant by mailing, by registered mail to where the Tenant resides on June 6, 2017.

The tenant filed an Application for Dispute Resolution to cancel the one month Notice to End Tenancy. The tenant failed to attend the hearing. The tenant's application was dismissed in a hearing that was held on June 15, 2017. However, the arbitrator was not able to grant an Order of Possession as neither party had included a copy of the tenancy agreement and the one month Notice to End Tenancy with the materials.

The landlord's application includes a monetary claim for non payment of rent for May 2017. I determined it was appropriate to amend the landlord's application to include a claim for non-payment of rent for June as the landlord's ability to regain possession was restricted because of the tenant's application to cancel the Notice to End Tenancy. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to an Order for Possession?
- b. Whether the landlord is entitled to A Monetary Order and if so how much?
- c. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into a written month to month tenancy agreement that provided that the tenancy would start on June 1, 2015. The rent is \$1900 per month payable on the first day of each month. The tenant paid a security deposit of \$950 on November 24, 2014.

The tenant(s) failed to pay the rent for the months of May 2017 and June 2017 and the sum of \$3800 remains owing. The tenant has left belongings in the rental unit and it is uncertain whether the tenant is still living there.

Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. There is outstanding rent. The Tenant(s) have not made an application to set aside the Notice to End Tenancy and the time to do so has expired. In such situations the Residential Tenancy Act provides the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date. Accordingly, I granted the landlord an Order for Possession on 2 days notice.

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

Analysis - Monetary Order and Cost of Filing fee:

I determined the tenant has failed to pay the rent for the month(s) of May 2017 and June 2017 and the sum of \$3800 remains outstanding. I granted the landlord a

monetary order in the sum of \$3800 plus the sum of \$100 in respect of the filing fee for a total of \$3900.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

This decision is final and binding on both parties.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Residential Tenancy Act.

Dated: July 25, 2017

Residential Tenancy Branch